

## APPENDIX B **CMA Committees, Appeal Process and Administration**

### **COMMITTEES**

The CMA has two committees of the Board: the Administration & Legislation Committee and the Plans & Programs Committee. There is also a technical advisory committee.

#### **Administration & Legislation Committee**

This committee makes recommendations to the CMA Board on administrative matters such as contracts, the work program, strategic plan, the annual budget and legislation. The committee is comprised of the chair and vice-chair of the Board, four city/county representatives representing each of the four planning areas and a representative of AC Transit and BART.

#### **Plans & Programs Committee**

This committee makes recommendations to the CMA Board on the Congestion Management Program, the *Countywide Transportation Plan*, federal and state funding programs and studies by others. The committee is comprised of the chair and vice-chair of the Board, four city/county representatives representing each of the four planning areas and a representative of AC Transit and BART.

#### **Technical Advisory Committee**

The Alameda County Transportation Advisory Committee (ACTAC) functions as the technical advisory committee to the CMA. ACTAC is comprised of one staff representative from each city and the county; one staff representative from each transit operator; one staff representative each from the Port of Oakland, Alameda County Transportation Authority, the Metropolitan Transportation Commission, Caltrans and the Bay Area Air Quality Management District. Staff from the cities' and county's public works and planning departments participate on the ACTAC. The executive director of the CMA is the chairperson.

### **APPEAL PROCESS**

A city or the county may appeal actions of the CMA according to the following process before filing action in any court. The appealing agency first requests the CMA to reconsider its action. If the CMA either rejects the reconsideration or the appeal, the action of the CMA may be appealed to the member local jurisdictions (cities and the County). An appeal must be filed with the CMA within 30 days of the action being appealed. The CMA must act upon the appeal within 60 days. If the action is appealed, the local jurisdictions will schedule a vote on the appeal within 60 days following the CMA action on the appeal. The action of the CMA will be overruled if a majority of the local jurisdictions representing a majority of the population of the county takes action to overturn the CMA action. In accordance with the JPA, the CMA has adopted rules and procedures governing the appeal process. The detailed Appeal process, as approved by the CMA Board is presented in the following page.

## Administrative Costs

The administrative costs of the CMA are paid from levies on each city and the county in proportion to the fuel tax subventions under Proposition 111. The levies are based on the annual budget, which is adopted by April 1 of each year. MTC has entered into contracts with the Bay Area CMAs to assist in meeting the requirements of TEA-21. These revenues have reduced the levy to the cities and county for support of the CMA. The CMA will continue to advocate legislative measures that provide funding for these administrative costs so that fuel tax subventions to local government can be fully employed to address local transportation needs.

**APPEAL PROCESS****ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY**

Ordinance #3

Approved December 17, 1992

The Alameda County Congestion Management Agency (hereinafter referred to as CONGESTION MANAGEMENT AGENCY) does enact its Appeal Process pursuant to Section 14 of the Joint Powers Agreement as follows:

**A. Definitions**

Local Agencies are the County of Alameda and the cities of Alameda County.

For purposes of the required majority of the population, the County of Alameda shall be counted as the population of the unincorporated area.

**B. Process**

Any party that considers itself adversely affected by an action by the CONGESTION MANAGEMENT AGENCY Board shall follow the appeal process set forth below before filing action in any court. The party shall provide factual evidence to the CONGESTION MANAGEMENT AGENCY Board that it is or could be adversely affected by the action in question. The CONGESTION MANAGEMENT AGENCY Board will apply the same standards, in determining standing, as is applied under the California Environmental Quality Act.

An action of the CONGESTION MANAGEMENT AGENCY subject to the Appeal Process shall remain valid until rescinded.

**(1) Decision to Requested Reconsideration of CONGESTION MANAGEMENT AGENCY Action.**

If a party does not agree with a specific action taken by the CONGESTION MANAGEMENT AGENCY and would like the action rescinded or modified, the party shall first request that the CONGESTION MANAGEMENT AGENCY reconsider the action. If the request for reconsideration is from an entity having a governing body, the request for reconsideration must be approved by the governing body before it can be filed with the CONGESTION MANAGEMENT AGENCY.

**(2) Filing Requirements for Request for Reconsideration**

A party may request that the CONGESTION MANAGEMENT AGENCY reconsider a specific action by filing a request for reconsideration with the CONGESTION MANAGEMENT AGENCY within 30 days of the CONGESTION MANAGEMENT AGENCY action in question. The request must be received at the CONGESTION MANAGEMENT AGENCY offices on or before 30<sup>th</sup> day following the CONGESTION MANAGEMENT AGENCY action. If the request for reconsideration is from an entity

having a governing body, the request for reconsideration must include a certified copy of the action by the governing body requesting reconsideration. The written request for reconsideration must (1) identify the specific CONGESTION MANAGEMENT AGENCY action that the party is requesting the CONGESTION MANAGEMENT AGENCY to reconsider, and (2) specify the reasons why the party believes the action should be reconsidered, including factual evidence that the party is or will be adversely affected by the CONGESTION MANAGEMENT AGENCY action.

**(3) CONGESTION MANAGEMENT AGENCY Reconsideration**

If a request for reconsideration is filed in accordance with the requirements set forth in paragraphs (1) and (2), the CONGESTION MANAGEMENT AGENCY Board shall reconsider the action within 60 days of the date the written request for reconsideration was received by the CONGESTION MANAGEMENT AGENCY.

If both CONGESTION MANAGEMENT AGENCY Board and the party requesting reconsideration agree, parties may enter into mediation.

Within 15 days of the reconsideration, the party shall be notified by Registered Mail, Return Receipt Requested as to whether the CONGESTION MANAGEMENT AGENCY Board, upon reconsideration of the action, affirmed, rescinded or modified the action. If the original action required a majority of those members present and voting pursuant to the Joint Powers Agreement, a majority vote of the CONGESTION MANAGEMENT AGENCY Board is required to affirm, rescind or modify the action. If the original action required a majority of the authorized CONGESTION MANAGEMENT AGENCY Board vote pursuant to the Joint Powers Agreement, a majority of the authorized vote of the CONGESTION MANAGEMENT AGENCY Board is required to affirm, rescind or modify the action. If the action was not rescinded, the notice shall include the specific reasons why not.

**(4) Appeal of CONGESTION MANAGEMENT AGENCY Decision to Local Agencies**

If the CONGESTION MANAGEMENT AGENCY affirms its original action, then the party may appeal the CONGESTION MANAGEMENT AGENCY action in question directly to the Local Agencies. In order to proceed with such an appeal, the appellant must file a written Appeal with the CONGESTION MANAGEMENT AGENCY. The Appeal must be received at the CONGESTION MANAGEMENT AGENCY offices on or before the 30<sup>th</sup> day following the date when the appellant party received written notification of the decision of the CONGESTION MANAGEMENT AGENCY. The Appeal must (1) identify the specific CONGESTION MANAGEMENT AGENCY action that the appellant wishes rescinded or modified, and (2) specify the reasons why the appellant believes the action should be rescinded or modified.

Upon receipt of the Appeal, the CONGESTION MANAGEMENT AGENCY shall transmit the Appeal to the Local Agencies by Registered Mail, Return Receipt Requested within 15 days. This transmittal must include a copy of the Appeal along with a report from the CONGESTION MANAGEMENT AGENCY outlining the basis for the original CONGESTION MANAGEMENT AGENCY action and the reasons why it was affirmed.

(5) Local Action on the Appeal

The Local Agencies must schedule a vote on the Appeal and notify the CONGESTION MANAGEMENT AGENCY at its offices of the result of their vote within 60 days following receipt of the CONGESTION MANAGEMENT AGENCY notice of the Appeal. If a majority of the Local Agencies representing a majority of the population of the county vote in favor of the appeal and notify the CONGESTION MANAGEMENT AGENCY within 60 day time period, then the CONGESTION MANAGEMENT AGENCY action is rescinded or modified as directed. Each vote to rescind or modify the CONGESTION MANAGEMENT AGENCY action must be approved by the governing body of the Local Agency. Failure to take action within the 60 day time period is deemed to constitute a vote to affirm the CONGESTION MANAGEMENT AGENCY action.

(6) Notification of the Results of Local Actions on the Appeal

The CONGESTION MANAGEMENT AGENCY must notify the appellant party that filed the Appeal by Registered Mail, Return Receipt Requested of the results of the local consideration of the Appeal within 15 days following the end of the 60 day review period provided for local consideration of the Appeal.

Approved as to form:

Approved this  
17<sup>th</sup> day of December 1992:

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County Counsel

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E. William Withrow, Chairman

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